

IN THE MATTER OF
THE APPLICATION OF
TITUS WALKER
FOR A MORTGAGE ORIGINATOR
LICENSE

BEFORE THE COMMISSIONER
OF
FINANCIAL REGULATION
Case No. DFR-EU-2007-75

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STATEMENT OF THE CASE

The hearing of the above captioned matter was held on September 18, 2007, and pursuant to Financial Institutions Article ("FI"), § 2-103 Annotated Code of Maryland was heard by the Deputy Commissioner of Financial Regulation, Joseph E. Rooney ("Deputy Commissioner"). This matter was scheduled for a hearing as a result of a decision by the Office of the Commissioner pursuant to FI Section 11-607(e), to deny the Applicant, Titus Walker, a mortgage originator license [Comm'r Exhibit # 1]. The denial was based on the following: a) Applicant's failure to satisfy the Commissioner that the Applicant is of good moral character and has the general fitness to warrant the belief that the Applicant will act as a mortgage originator in a lawful, honest, fair and efficient manner as required by FI § 11-605(a)(2); and b) a prior felony or misdemeanor conviction of Applicant that is directly related to Applicant's fitness and qualification to act as a mortgage originator, in violation of FI §§ 11-605(b) and 11-615(a)(2). Documentation reviewed by the Office of the Commissioner reflects that in or about June, 2000, Applicant was convicted of several felonies, including fraudulent misappropriation by a fiduciary, and theft over \$300.00 [Comm'r Exhibit # 6].

Applicant was not represented by counsel. Hope Miller, Assistant Attorney General, appeared as presenter of evidence on behalf of the Commissioner. Thomas L. Gounaris, Assistant

Attorney General served as counsel to the Commissioner. The proceedings were electronically recorded.

FINDINGS OF FACT

From the testimony and exhibits presented, and with the opportunity to observe the demeanor of the witnesses and to assess their credibility, the Deputy Commissioner finds the relevant facts to be these:

1. On or about April 24, 2007, Applicant's application to the Commissioner for a mortgage originator license was denied [Comm'r Exhibit # 1].

2. On or about June 5, 2000, Applicant was convicted in the Circuit Court for Montgomery County of fraudulent misappropriation by a fiduciary, and theft over \$300.00. Applicant was sentenced to fifteen years confinement, with all but five years suspended, and five years supervised probation. Applicant was also ordered to pay \$80,329.23 restitution [Comm'r Exhibits # 5].

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Deputy Commissioner concludes as a matter of law under FI § 11-605 that the Applicant should not be granted a mortgage originator license at this time. To qualify for a mortgage originator license, an applicant must satisfy the Commissioner that the applicant is of "good moral character and has general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair, and efficient manner". FI § 11-605(a)(2). The Commissioner may also deny an application for any reason that a license may be revoked or suspended under either the Mortgage Originator Law (FI § 11-601 *et seq.*) or the Mortgage Lender Law (FI § 11-501 *et seq.*) FI § 11-607(e)(2). Conviction under the laws of the United States or any state of a felony or misdemeanor that is directly related to the fitness and qualification of an

individual to act as a mortgage originator is one such ground. FI § 11-615(a)(2).

When denying a license because of a criminal conviction, the Commissioner is required to consider the following: (1) the nature of the crime; (2) the relationship of the crime to the activities authorized by the license; (3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the licensee or applicant to engage in the mortgage origination business; (4) the length of time since the conviction; and (5) the behavior and activities of the applicant since the conviction.

In this case, Applicant's crime was committed in connection with his care of an elderly friend whom he had taken into his home. In particular, based on Applicant's testimony, he was found to have improperly used a power of attorney the person had granted to him with respect to her bank account(s). While Applicant eloquently argues that he had never used any funds of his principal in any way for his personal gain, and had only used them to pay her bills, Applicant was nevertheless found guilty of fraudulent misappropriation and theft, and was convicted of those crimes. It would be inappropriate for the Deputy Commissioner to attempt to reevaluate Applicant's guilt in his criminal trial. The fact that he was convicted must be regarded as conclusive proof of his guilt. *Attorney Grievance Commission of Md. v. Gerald Ney Klauber*, 289 Md. 446 (1981).

The nature of Applicant's crime is directly related to the activities authorized by a mortgage originator license. It involved a dishonest act of Applicant in the course of a relationship of trust, not unlike the relationship of a mortgage originator and his customer. While it is true that the conviction occurred approximately seven years ago, only approximately four years have passed since Applicant's release from confinement. He has not yet completed his period of supervised release. There is no evidence of any other violations of law by Applicant, before or since his conviction; and from his

testimony, it is apparent he is presently conducting his personal life in a responsible and exemplary manner. Nevertheless, the conviction cannot be ignored.

At the present time, the Deputy Commissioner is not reasonably satisfied that Applicant meets the qualifications for a mortgage originator license as required by FI § 11-605(a)(2). Therefore, the Deputy Commissioner must conclude, based upon the evidence before him, Applicant is not presently qualified to be granted a mortgage originator license. The Deputy Commissioner specifically notes that his denial of Applicant's license at this time does not act as a permanent bar to his reapplying for a mortgage originator license at a future time.

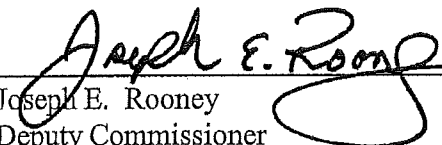
FINAL ORDER

In consideration of the foregoing Findings of Fact and Conclusions of Law, it is this 18th day of September, 2007, hereby **ORDERED** that:

Applicant, Titus Walker, is **DENIED** a mortgage originator license, pursuant to FI § 11-607(e).

Pursuant to State Govt. Art., Section 10-222, any party who is aggrieved by the Commissioner's decision, may file a petition for judicial review with the Circuit Court for the county where any party resides or has a principal place of business. Such petition must be filed within 30 days after Applicant's receipt of this Order (Md. Rule 7-203). The filing of a petition for judicial review does not automatically stay the enforcement of the Final Order.

COMMISSIONER OF FINANCIAL REGULATION


Joseph E. Rooney
Deputy Commissioner